

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

ROBERT EBERWEIN, *et al.*,

No. C 13-2740 SI

Plaintiffs,

**ORDER DISMISSING COMPLAINT AND
DEFERRING *IN FORMA PAUPERIS*
APPLICATION**

v.

TRACEY DAVIS,

Defendant.

On June 14, 2013, plaintiffs filed a complaint and a request to proceed *in forma pauperis* in this Court. For the reasons stated below, the Court DISMISSES plaintiffs' complaint with leave to amend. Because the Court has dismissed the complaint, it DEFERS ruling on the *in forma pauperis* application.

The primary portion of plaintiffs' complaint consists of a single handwritten page, stating:

To the Court this Complaint involves my employer General Motors filing Bankruptcy in 2009 Giving Notice Going out of mortgage Business Sept 2008. GMAC is my employer, Lender, Debt Collector, and they sold our loans to Pite Duncan, Executive Trustee Services, U.S. Trustee Office Retaliated 2005-2013 have not paid our proof of cliams [mistakes in original]

This explanation is insufficient to notify either the Court or defendants what the factual basis underlying the complaint is. More importantly, it is unclear under what law or laws plaintiffs assert their claims. Attached to the complaint are multiple documents from other court cases that appear to involve the parties. These cases are in various courts: the United States Bankruptcy Court for the Southern District of New York, this District, the Contra Costa County Superior Court of California, and the United States Bankruptcy Court for the Northern District of California. However, it is unclear how any of these documents relate to the instant case.

Pursuant to 28 U.S.C. § 1915(e)(2), the Court must review complaints filed *in forma pauperis*

1 to determine whether they are frivolous or fail to state a claim upon which relief can be granted. *See*
2 28 U.S.C. § 1915(e)(2)(B)(i)-(ii). In this instance, the Court finds that it must dismiss plaintiffs'
3 complaint because the complaint fails to state a federal claim as it is currently written. Plaintiffs fail to
4 allege any violations of federal law or clearly state a factual basis for their complaint.

5 If plaintiffs wish to proceed in federal court, they must file an amended complaint that makes
6 the basis for federal court jurisdiction more explicit. Plaintiffs must describe to the Court in greater
7 detail the actions defendant took that caused their claim, and the laws under which they seek relief.

8 Plaintiffs must file an amended complaint **on or before July 26, 2013**. If plaintiffs fail to file
9 an amended complaint by that date, the matter will be dismissed with prejudice. Plaintiffs' application
10 to proceed *in forma pauperis* is deferred for decision after filing of an amended complaint.

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12 **IT IS SO ORDERED.**

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14 Dated: July 2, 2013



SUSAN ILLSTON
United States District Judge